

AMENDMENTS TO THE CLAIMS:

Please amend the claims as shown in the following Listing of Claims.

Listing of Claims

1. **(currently amended)** An adjustable control pedal comprising, in combination:
a pivotable upper arm having first and second guide slots and a drive slot formed therein;
wherein the upper arm pivots about a pivot axis which is spaced apart from the drive slot;
wherein the first and second guide slots and the drive slot are each straight;
a lower arm having a lower end carrying a pedal and operatively connected to the upper arm for selected movement relative to the upper arm;
a first pin secured to the lower arm and laterally extending into the first guide slot;
a second pin secured to the lower arm and laterally extending into the second guide slot;
and
a drive assembly operatively connected to the lower arm to selectively move the lower arm relative to the upper arm and including:
a screw carried by the upper arm so that the screw moves with the upper arm as the upper arm pivots about the pivot axis and remains at a fixed location relative to the upper arm as the lower arm is selectively moved relative to the upper arm;
a nut secured to the lower arm, laterally extending through the drive slot from the lower arm to the screw, threadably engaging the screw, and adapted to axially move along the screw upon rotation of the screw to move the lower arm relative to the upper arm; and
a motor operatively connected to the screw to selectively rotate the screw.
2. **(original)** The adjustable control pedal according to claim 1, wherein the first and second guide slots are formed on opposite sides of the drive slot.
3. **(original)** The adjustable control pedal according to claim 1, wherein the first and second guide slots are nonparallel.

4. **(original)** The adjustable control pedal according to claim 3, wherein the first and second guide slots are inclined.

5. **(previously presented)** The adjustable control pedal according to claim 1, wherein weight of the lower arm is supported by the upper arm through the first and second pins.

6. **(cancelled)**

7. **(cancelled)**

8. **(cancelled)**

9. **(cancelled)**

10. **(cancelled)**

11. **(cancelled)**

12. **(cancelled)**

13. **(cancelled)**

14. **(cancelled)**

15. **(cancelled)**

16. **(cancelled)**

17. **(cancelled)**

18. **(cancelled)**

19. (cancelled)

20. (cancelled)

21. (cancelled)

22. (previously presented) The adjustable control pedal according to claim 1, wherein the upper arm pivots about a pivot axis which ~~is at a fixed position relative to the upper arm~~ remains at a fixed location relative to the upper arm as the lower arm is selectively moved relative to the upper arm.

23. (previously presented) The adjustable control pedal according to claim 1, further comprising a third pin secured to the upper arm for connection to a device to be controlled by operation of the adjustable control pedal.

24. (previously presented) The adjustable control pedal according to claim 1, wherein the drive slot is inclined.

25. (previously presented) The adjustable control pedal according to claim 1, wherein the first and second guide slots extend entirely through the upper arm and the first and second pins extend entirely through the first and second guide slots respectively.

26. (currently amended) An adjustable control pedal comprising, in combination:
a pivotable upper arm having first and second guide slots and a drive slot formed therein;
wherein the first and second guide slots are each straight;
wherein the upper arm pivots about a pivot axis ~~which is at a fixed position relative to the upper arm;~~

a lower arm having a lower end carrying a pedal and operatively connected to the upper arm for selected movement relative to the upper arm;

a first pin secured to the lower arm and laterally extending into the first guide slot;

a second pin secured to the lower arm and laterally extending into the second guide slot;
and

a drive assembly operatively connected to the lower arm to selectively move the lower arm relative to the upper arm and including:

a screw carried by the upper arm so that the screw moves with the upper arm as the upper arm pivots about the pivot axis and remains at a fixed location relative to the upper arm as the lower arm is selectively moved relative to the upper arm;

a nut secured to the lower arm, laterally extending through the drive slot from the lower arm to the screw, threadably engaging the screw, and adapted to axially move along the screw upon rotation of the screw to move the lower arm relative to the upper arm; and

a motor operatively connected to the screw to selectively rotate the screw; and wherein the pivot axis remains at a fixed location relative to the upper arm as the lower arm is selectively moved relative to the upper arm.

27. **(previously presented)** The adjustable control pedal according to claim 26, wherein the first and second guide slots are formed on opposite sides of the drive slot.

28. **(previously presented)** The adjustable control pedal according to claim 26, wherein the first and second guide slots are nonparallel.

29. **(previously presented)** The adjustable control pedal according to claim 28, wherein the first and second guide slots are inclined.

30. **(previously presented)** The adjustable control pedal according to claim 26, wherein the pivot axis is spaced apart from the drive slot.

31. **(previously presented)** The adjustable control pedal according to claim 26, wherein the drive slot is inclined.

32. **(previously presented)** The adjustable control pedal according to claim 26, wherein the first and second guide slots extend entirely through the upper arm and the first and second pins extend entirely through the first and second guide slots respectively.

33. **(currently amended)** An adjustable control pedal comprising, in combination:
a pivotable upper arm having first and second guide slots and a drive slot formed therein;
wherein the first and second guide slots and the drive slot are each straight;
wherein the upper arm pivots about a pivot axis ~~which is at a fixed position relative to the upper arm and space~~ spaced apart from the drive slot;
a lower arm having a lower end carrying a pedal and operatively connected to the upper arm for selected movement relative to the upper arm;
a first pin secured to the lower arm and laterally extending into the first guide slot;
a second pin secured to the lower arm and laterally extending into the second guide slot;
and
a drive assembly operatively connected to the lower arm to selectively move the lower arm relative to the upper arm and including:
a screw carried by the upper arm so that the screw moves with the upper arm as the upper arm pivots about the pivot axis and remains at a fixed location relative to the upper arm as the lower arm is selectively moved relative to the upper arm;
a nut secured to the lower arm, laterally extending through the drive slot from the lower arm to the screw, threadably engaging the screw, and adapted to axially move along the screw upon rotation of the screw to move the upper arm relative to the lower arm; and
a motor operatively connected to the screw to selectively rotate the screw; and wherein the pivot axis remains at a fixed location relative to the upper arm as the lower arm is selectively moved relative to the upper arm.

34. **(previously presented))** The adjustable control pedal according to claim 33, wherein the first and second guide slots are formed on opposite sides of the drive slot.

35. **(previously presented)** The adjustable control pedal according to claim 33, wherein the first and second guide slots are nonparallel.

36. **(previously presented)** The adjustable control pedal according to claim 35, wherein the first and second guide slots are inclined.

37. **(previously presented)** The adjustable control pedal according to claim 33, wherein the drive slot is inclined.

38. **(new)** The adjustable control pedal according to claim 1, wherein the lower arm is located adjacent a first lateral side of the drive slot of the upper arm and the screw is located adjacent second lateral side of the drive slot of the upper arm opposite the first lateral side so that the lower arm and the screw are located on opposite lateral sides of the drive slot of the upper arm and the nut laterally extends through the drive slot from the lower arm to the screw.

39. **(new)** The adjustable control pedal according to claim 26, wherein the lower arm is located adjacent a first lateral side of the drive slot of the upper arm and the screw is located adjacent second lateral side of the drive slot of the upper arm opposite the first lateral side so that the lower arm and the screw are located on opposite lateral sides of the drive slot of the upper arm and the nut laterally extends through the drive slot from the lower arm to the screw.

40. **(new)** The adjustable control pedal according to claim 33, wherein the lower arm is located adjacent a first lateral side of the drive slot of the upper arm and the screw is located adjacent second lateral side of the drive slot of the upper arm opposite the first lateral side so that the lower arm and the screw are located on opposite lateral sides of the drive slot of the upper arm and the nut laterally extends through the drive slot from the lower arm to the screw.

REMARKS

In the Office Action mailed December 30, 2004, the Examiner rejected claims 1 to 5 and 22 to 37. The rejections are each respectfully traversed. This Amendment "D" cancels no claims, amends claims 1, 22, 26, and 33, and adds new claims 38 to 40. Accordingly, claims 1 to 5 and 22 to 40 are now pending in this application.

Claims 1 to 5, 22 to 37 were rejected under 35 U.S.C. 103(a) as unpatentable over Sitrin (US 4,875,385) in view of Willemsen et al. (US 6,151,986).

Claims 1, 26, and 33, and claims dependent therefrom, are allowable because they each include the limitations of “a screw carried by the upper arm so that the screw moves with the upper arm as the upper arm pivots about the pivot axis and remains at a fixed location relative to the upper arm as the lower arm is selectively moved relative to the upper arm” and “a nut . . . laterally extending through the drive slot from the lower arm to the screw.”

Sitrin discloses securing the drive screw 46 to the mounting bracket 34 so that the drive screw is fixed in position and never moves. Therefore, the drive screw 46 does not move with the upper arm 36 as the upper arm 36 pivots during application and also the position of the upper arm 36 moves relative to the drive screw 46 as the lower arm 38 is moved relative to the upper arm 36. Willemsen et al. does not cure this defect because the screw of Willemsen et al. is carried by the lower arm 20 so that the screw does not remain in a fixed position relative to the upper arm.

Sitrin also discloses a screw 46 which extends between the upper arm 36 and the lower arm. The nut 52 is therefore adjacent the lower arm and there is no need for a drive slot as defined by claims 1, 26, and 33. The slot 36e in the upper arm 36 serves a completely different purpose (movement of the pivot axis) than the drive slot of claims 1, 26, and 33 (access between the screw and lower arm). Willemsen et al. does not cure this defect because the screw and nut are both located within the lower arm 20 and adjacent the lower arm. Willemsen et al. has no need for a drive slot (as defined by claims 1, 26, and 33). The slot 22 in the upper arm serves a completely different purpose (as a guide slot to control movement between the upper and lower arms) than the drive slot of claims 1, 26, and 33 (access between the screw and lower arm).

Accordingly, no prior art of record discloses or reasonably suggests the present invention as defined by claim 1. Reconsideration and withdrawal of the rejection is requested.

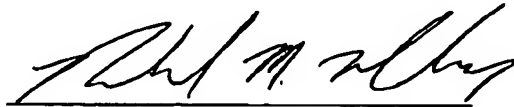
In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is found that that the present amendment does not place the application in a condition for allowance, applicant's undersigned attorney requests that the examiner initiate a telephone interview to expedite prosecution of the application.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-2326.

Respectfully submitted,

PORTER, WRIGHT, MORRIS & ARTHUR LLP

May 26, 2004

A handwritten signature in black ink, appearing to read "Richard M. Mescher", is written over a horizontal line.

Richard M. Mescher, Reg. No. 38,242

Porter, Wright, Morris & Arthur
41 South High Street
Columbus, OH 43215-6194